



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-R8-ES-2021-0164; FXES11140800000–223–FF08ECAR00]

Receipt of Application for Renewal of Incidental Take Permit; Low-Effect Habitat Conservation Plan for the Threatened Coastal California Gnatcatcher, Los Angeles County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit renewal application; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from Monterey Park Retail Partners, LLC, for renewal of an incidental take permit pursuant to the Endangered Species Act. The applicant has requested a renewal that will extend permit authorization by 5 years from the date the permit is reissued. The permit would authorize take of the federally threatened coastal California gnatcatcher, incidental to otherwise lawful activities associated with the low-effect habitat conservation plan (HCP) for the Monterey Park Market Place Project in Los Angeles County, California. If the permit is renewed, no additional take above the original authorized limit of up to three pairs of coastal California gnatcatcher associated with permanent removal of 2.77 acres of coastal sage scrub and 9.12 acres of mulefat scrub and ruderal vegetation within the 62-acre development area will be authorized. We invite the public and local, State, Tribal, and Federal agencies to comment on the application, which includes the applicant's current HCP. In accordance with the requirements of the National Environmental Policy Act (NEPA), we have prepared a draft low-effect screening form supporting our preliminary determination that the proposed action qualifies for a categorical exclusion under NEPA. To make this determination, we reassessed our environmental action statement and low-effect screening form prepared

for the current HCP, and this draft NEPA compliance documentation is also available for public review.

DATES: We must receive your written comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: *Document availability:* Electronic copies of the documents this notice announces, along with public comments received, will be available online in Docket No. FWS-R8-ES-2021-0164 at <https://www.regulations.gov>.

Comment submission: In your comment, please specify whether your comment addresses the proposed HCP, draft environmental action statement, or any combination of the aforementioned documents, or other supporting documents. You may submit written comments by one of the following methods:

- *Online:* <https://www.regulations.gov>. Search for and submit comments on Docket_No. FWS-R8-ES-2021-0164.
- *By hard copy:* Submit comments by U.S. mail to Public Comments Processing, Attn: Docket No. FWS-R8-ES-2021-0164; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: PRB/3W; Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan D. Snyder, Assistant Field Supervisor, Carlsbad Fish and Wildlife Office, 760–431–9440. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services.

Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), have received an application from Monterey Park Retail Partners, LLC (applicant), to renew incidental take permit TE20536C-0 under the Endangered Species

Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant has requested a renewal that would extend the permit authorization by 5 years from the date the permit is reissued. The existing permit is valid from February 6, 2017, to February 6, 2022. The applicant has agreed to follow all of the existing habitat conservation plan (HCP) conditions. The permit would authorize take of the federally threatened coastal California gnatcatcher (*Poliophtila californica californica*), incidental to otherwise lawful activities associated with the low-effect HCP for the Monterey Park Market Place Project. If the permit is renewed, no additional take above the original authorized limit of up to three pairs of coastal California gnatcatcher associated with permanent removal of 2.77 acres of coastal sage scrub and 9.12 acres of mulefat scrub and ruderal vegetation within the 62-acre development area will be authorized.

We invite the public and local, State, Tribal, and Federal agencies to comment on the application, which includes the applicant's current low-effect HCP and our preliminary determination that the proposed action is categorically excluded under NEPA. To make this determination, we reassessed our environmental action statement and low-effect screening form prepared for the current HCP, and this draft NEPA compliance documentation is also available for public review.

Background

The coastal California gnatcatcher was listed by the Service as threatened on March 30, 1993 (58 FR 16742). Section 9 of the ESA and its implementing Federal regulations prohibit the "take" of animal species listed as endangered or threatened. "Take" is defined under the ESA as to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect [listed animal species], or to attempt to engage in such conduct" (16 U.S.C. 1538). "Harm" includes significant habitat modification or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns, such as breeding, feeding, or sheltering (50 CFR 17.3). However, under section

10(a) of the ESA, the Service may issue permits to authorize incidental take of listed species. “Incidental taking” is defined by the ESA implementing regulations as taking that is incidental to, and not the purpose of, carrying out an otherwise lawful activity (50 CFR 17.3). Regulations governing incidental take permits for endangered and threatened species, respectively, are found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32. Issuance of an incidental take permit also must not be likely to jeopardize the continued existence of any federally listed fish, wildlife, or plant species. All species included in the incidental take permit would receive assurances under our “No Surprises” regulations (50 CFR 17.22(b)(5) and 17.32(b)(5)).

The applicant has applied for the renewal of their permit for incidental take for the threatened coastal California gnatcatcher. The potential taking would occur by activities associated with the construction of a commercial development (as defined in the HCP) in an area that supports suitable habitat for the covered species. The project is located on an approximately 62-acre property in Monterey Park, Los Angeles County, California. An incidental take permit was first issued for the HCP on February 6, 2017, and will expire on February 6, 2022.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1539) and NEPA regulations at 40 CFR 1506.6.

**Scott Sobiech,
Field Supervisor,
Carlsbad Fish and Wildlife Office,
Carlsbad, California.**

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